

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CR2013-003390-001 DT

04/22/2016

HON. ROSA MROZ

CLERK OF THE COURT
J. Matlack
Deputy

STATE OF ARIZONA

KIRSTEN VALENZUELA
RYAN PATRICK GREEN

v.

JAMES EDWARDS (001)

STEPHEN M JOHNSON

RULING

The Court has considered the Defendant's Motion to Preclude Based on Lack of Foundation and Relevance and Motion to Suppress Based on Lack of Foundation and Relevance. The Court notes that both of these motions are about the same topic and have the same content but are just titled differently.

The items the Defendant request to be precluded are notes and letters that are marked as trial exhibits 3, 4 (copies in exhibit 11), and 5 (copies in exhibit 12), as well as 2 audio/video recordings from jail visits on August 7, 2012 and August 15, 2012.

Exhibit 3 contains the jail ID bracelet with the name of James Edwards and a handwritten note/letter signed by someone with the name "Jmoney". According to the State, MCSO detention officer Birchfield will testify that he conducted the search of Edwards and Dejuan Donaldson's jail cells. Exhibit 3 was found either on Donaldson or from the immediate presence of Donaldson while Donaldson was in the Defendant's jail cell. The State believes that the note/letter was written by Edwards.

Exhibit 4 (and 11) contains the jail ID bracelet with the name of Dejuan Donaldson and several unsigned handwritten notes/letters. According to the State, Officer Birchfield will testify that he found Exhibit 4 on the Defendant (Edwards) or from his immediate presence while the

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Defendant was in Donaldson's jail cell. The State believes that the notes/letters were written by Donaldson.

Exhibit 5 (and 12) contains numerous unsigned handwritten notes/letters. According to the State, Exhibit 5 was collected from both Donaldson and the Defendant's jail cells when they were put into administrative segregation population. Donaldson did not have a roommate. The Defendant had a roommate named Robert Nowak. The State is unable to determine which jail cell these notes/letters came from or from whose belongings, including Robert Nowak.

The August 7, 2012 audio/video recording is of a jail visit among Donaldson and his sisters Nyah Johnson and Lexis Donaldson. The Defendant is not seen on the video and is not heard on the audio. The State believes that the Defendant was present at this jail visit based on the anticipated testimony from Nyah Johnson. The August 15, 2012 audio/video recording is of another jail visit between Donaldson and Nyah Johnson.

The State asserts that the notes/letters found and the recordings show a conspiracy between Donaldson and the Defendant to switch places with each other so that a DNA sample will be collected from the wrong person.

As to Exhibit 3, the handwritten note signed by someone with the name "Jmoney" found either on Donaldson or from the immediate presence of Donaldson while Donaldson was in the Defendant's jail cell, the Court finds the note to be relevant, that the probative value is not substantially outweighed by its prejudicial effect, and that the State will be able to establish foundation based on where the note was found, the content of the note, and ability to further authenticate by comparing the signature of the note to the Defendant's signature on an admission slip. The Court also finds that the note is not hearsay because it is the admission of a party-opponent. This note is admissible.

As to Exhibit 4, there are five different documents found on the Defendant or in the Defendant's immediate presence while the Defendant was in Donaldson's jail cell. The Court finds that the document about a request for legal call signed by Robert Nowak, and the document about a person named Jake and his visitation of someone in jail are not relevant and not admissible. The other three documents make references to "both D.O.'s working knew me since I first come to this jail"; that "everything depends on who is working this shift," and "if the black dude works again we are up shit creek." The Court finds those documents to be relevant to the establishment of a conspiracy for the Defendant and Donaldson to switch places. The Court further finds that the probative value is not substantially outweighed by its prejudicial effect, and that the State will be able to establish foundation for the note based on where the note was found and the contents of the note. The Court also finds that the note is not hearsay because the

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statement was made by the Defendant's co-conspirator during and in furtherance of the conspiracy. These documents are admissible.

As to the documents contained in Exhibit 5, the Court finds that they lack sufficient foundation. There is too much guesswork as to who wrote the notes and exactly where it was found, and who found it. According, Exhibit 5 is not admissible.

As to the jail ID bracelets contained in Exhibits 3 and 4, the Court finds the ID bracelets to be relevant, that the probative value is not substantially outweighed by its prejudicial effect, and that the State will be able to establish foundation based on where the ID bracelets were found. The ID bracelets are admissible.

As to the audio/video recordings, the Court finds that they are relevant, and that the probative value is not substantially outweighed by a danger of unfair prejudice. The main objection from the defense is that Donaldson's statements are hearsay. The Court finds that Donaldson's statements contained in the recordings are not hearsay under Evidence Rule 801(c)(2)(E) pertaining to statements by co-conspirators. The audio/video recordings are admissible as long as the State can lay foundation for the recordings at the time of trial.

IT IS ORDERED granting in part, and denying in part, the Defendant's Motion to Preclude Based on Lack of Foundation and Relevance and Motion to Suppress Based on Lack of Foundation and Relevance, as stated above.